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SALES—EQUITABLE LIEN—BILLS OF LADING AS SECURITY FOR TIME DRAFTS.—The defendant, in pursuance of an order, shipped goods to a firm in Buenos Aires taking out negotiable bills of lading. The National Park Bank discounted two ninety day drafts drawn by the defendant upon the vendee for the amount of the purchase price, and took the bills of lading duly endorsed as security. The vendee accepted the drafts and received the bills of lading from the bank. Subsequently both the defendant and the vendee became bankrupt and the latter returned the goods to the defendant. The bank made a motion to obtain possession of the goods upon the ground that they had an equitable lien upon them. Held, two judges dissenting, the bank had no lien. *Helburn Thompson Co. v. All Americas Mercantile Corporation* (App. Div. 1st Dept. 1917) 167 N. Y. Supp. 711.

The drawing of a time draft against a consignment implies a credit transaction and entitles the vendee to the bill of lading, which represents the goods, upon the acceptance of the draft. See *National Bank of Commerce v. Merchants Bank* (1875) 91 U. S. 92. Accordingly a party who discounts the draft has no right to require an acceptance of the draft without surrendering the bill of lading; and upon surrender of the bill of lading all his legal rights in the goods pass to the vendee. N. Y. Pers. Prop. Law § 114 (a), Uniform Sales Act § 33 (a); see *Gibson v. Stevens* (1850) 49 U. S. 384. The claim of the bank in the principal case, however, was that it had retained equitable rights in the goods. A contract to hold specific goods as security for the discharge of an obligation is specifically enforceable and will create an equitable lien upon the property charged. Jones, Liens (3rd ed.) § 30. The courts have often implied such agreements in favor of a party discounting a draft when the money was advanced upon a consignment without a delivery of the bill of lading. *Parker v. Baxter* (1879) 19 Hun 410, aff'd 86 N. Y. 586; *Flour City Bank v. Garfield* (N. Y. 1883) 30 Hun 579. But there is no basis for the implication of an equitable lien where the discounting bank receives the bill of lading. It is amply protected by virtue of the legal rights obtained, and when it does relinquish the security and accept the personal obligation of the consignee instead, it forecloses the inference that it intends to retain any rights in the goods; and this is even true where the bank had a right to hold the bill of lading until payment. The situation is analogous to that of a common law lienor, who, upon a voluntary surrender of the goods upon which he had the lien, lost all his rights, both legal and equitable, in the pledged property. *Bailey v. Quint* (1850) 22 Vt. 474; *Stickney v. Allen* (1858) 76 Mass. 352. It would seem, therefore, that the decision in the principal case is sound.

TORTS—DECEIT—PROMISE MADE WITHOUT PRESENT INTENTION TO PERFORM.—The defendant sold a jitney bus to the plaintiff, promising orally that if the plaintiff should be unable to secure sufficient business the defendant would secure it for him. The plaintiff, on learning that the defendant had never intended to do this, continued to use the car, but later brought this action for the rescission of the contract and damages. Held, the plaintiff by using the car after discovering the fraud had lost his right to rescission. The court intimated, however, that if the plaintiff had properly stated his cause of action he might have recovered in tort. *Fleming v. Gerlinger Motorcar Co.* (Ore. 1917) 169 Pac. 28.